IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.151 OF 2006

Smt. Manibai B. Chavan ..Appellant.
Vs.
Kantilal Devji & Ors. ..Respondents.

Mr.H.E.Palwe, adv. for the Appellant.

Ms.Alpa Javeri h/for Teja Katdare, advs. for the Respondents.

CORAM : J.H.BHATIA, J.
DATE : JULY 6, 2007.

P.C.

1. Heard the learned counsel for the Parties. Perused the impugned judgment.

2. Mother of the defendant nos.1 and 3 was sister of the plaintiff/appellant. According to the plaintiff/appellant, disputed land belongs to her. However, the defendants/respondents made encroachment on her land. She sought declaration of her title with decree for vacant possession of the land. The suit was contested by the defendant no.2 to 4 by joint written statement. They denied the claim of the plaintiff. During the evidence, the plaintiff/appellant produced one document purported to be a gift deed executed by her mother. However, no witness was examined in respect of this claim. After hearing the parties, the learned trial Court came to a conclusion that the

plaintiff/appellant had failed to prove her claim over the property and the suit came to be dismissed. Plaintiff also preferred Regular Civil Appeal No.1 of 2001, which came to be dismissed by the Civil District Judge at Diu. This second appeal filed by the plaintiff is against the concurrent judgments of the Courts below.

3. The Courts below held that the plaintiff/appellant had not pleaded that any gift deed was executed by her mother in her favour and the gift deed was produced during her evidence without any pleading. She also did not examine any attesting witness to prove the same.

4. In view of these circumstances, the claim of the plaintiff came to be dismissed by both the Courts below. In view of the concurrent findings of the facts, I do not find any substantial question of law involved in the present appeal. Therefore, Second Appeal stands dismissed summarily.

[J.H.BHATIA, J.]